IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA)
	Plaintiff,) 8:08CR238)
	vs.) DETENTION ORDER
RA	AFAEL POSADAS,	
	Defendant.	}
A.	Order For Detention After conducting a detention hearing pursual Act on July 1, 2008, the Court orders the act to 18 U.S.C. § 3142(e) and (i).	ant to 18 U.S.C. § 3142(f) of the Bail Reform bove-named defendant detained pursuant
B.	 Statement Of Reasons For The Detention The Court orders the defendant's detention because it finds: X By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required. X By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community. 	
C.	minimum sentence of fi sentence of forty years in (b) The offense is a crime of (c) The offense involves a n (d) The offense involves a la	and includes the following: be offense charged: on with intent to distribute cocaine carries a live years imprisonment and a maximum imprisonment. If violence. arcotic drug. Irge amount of controlled substances, to wit:
	may affect whet X The defendant h ties. Past conduct of The defendant h The defendant h The defendant h The defendant h Court proceeding	appears to have a mental condition which her the defendant will appear. has no family ties in the area. has no steady employment. has no substantial financial resources. It is not a long time resident of the community. However, the defendant: has a history relating to drug abuse. has a history relating to alcohol abuse. has a significant prior criminal record. has a prior record of failure to appear at

DETENTION ORDER - Page 2 Release pending trial, sentence, appeal or completion of sentence. (c) Other Factors: The defendant is an illegal alien and is subject to deportation. The defendant is a legal alien and will be subject to deportation if convicted. X The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal. Other: X (4) The nature and seriousness of the danger posed by the defendant's release are as follows: The nature of the charges in the Indictment and the defendant's criminal history. X (5) Rebuttable Presumptions In determining that the defendant should be detained, the Court also relied on the following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e) which the Court finds the defendant has not rebutted: X (a) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other person and the community because the Court finds that the crime involves: (1) A crime of violence; or (2) An offense for which the maximum penalty is life imprisonment or death; or Χ (3) A controlled substance violation which has a maximum penalty of 10 years or more; or (4) A felony after the defendant had been convicted of two or more prior offenses described in (1) through (3)

- while the defendant was on pretrial release.

 X
 (b) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because the Court finds that there is probable cause to believe:
 - X (1) That the defendant has committed a controlled substance violation which has a maximum penalty of 10 years or more.
 - (2) That the defendant has committed an offense under 18 U.S.C. § 924(c) (uses or carries a firearm during and in relation to any crime of violence, including a crime of violence, which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device).

above, <u>and</u> the defendant has a prior conviction for one of the crimes mentioned in (1) through (3) above which is less than five years old and which was committed

D. Additional Directives

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

 The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and

DETENTION ORDER - Page 3

- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: July 1, 2008. BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge